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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

CONSIDERATION OF THE FINAL OUTCOME OF THE WORLD CONFERENCE, TAKING INTO CONSIDERATION THE PREPARATORY WORK AND THE CONCLUSIONS OF THE REGIONAL MEETINGS

Note verbale dated 23 April 1993 from the Permanent Mission of Denmark to the United Nations Office at Geneva

On behalf of the European Community and its Member States I hereby respectfully request that the enclosed Position Paper be issued as a document of the fourth session of the Preparatory Committee of the World Conference on Human Rights.

GE.93-13019

Position Paper
by
The European Community and its Member States

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I N T R O D U C T I O N
(paras 1-4)

(1) In this document, the ECMS would like to share their views on the outcome of the WCHR. This will be done:
- by outlining in this introductory part (paras 1-4) the general framework within which the ECMS believe the World Conference should concentrate its efforts;
- in Part One the ECMS will state their views on the general commitments that should follow from the WCHR, on achievements and on obstacles remaining (paras 5-14);
- in Part Two the ECMS will outline their views on concrete measures that should follow from the WCHR (paras 15-28). Specifically addressed will be the interrelationship between human rights, democracy and development, the need for continued implementation of human rights norms, and the need for enhancement of the UN's activities in the field of human rights.

(2) In June 1993 the second UN WCHR will be held in Vienna. Twenty-five years after the first conference on the subject (Teheran 1968) and almost forty-five years after the adoption of the Universal Declaration on Human Rights, the time has indeed come to take stock of achievements in the field of human rights and to formulate the task that is still ahead of us. It is the view of the ECMS that considerable achievements have resulted from the efforts of decades past, but it is evident that the world still has a long way to go before universal realisation of human rights is achieved.

(3) The ECMS attach particular importance to the universal concept of Human Rights as first developed in the Universal Declaration on Human Rights and later elaborated in the many UN instruments in this field. Regional human rights instruments should always constitute a forceful supplement to the universal concepts of human rights. As stated for instance in

the Preamble to the European Convention on Human Rights this represented "the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration".

(4) The ECMS also wish to stress that the main thrust of the World Conference should be to strengthen the human rights regime and to reaffirm the need to protect in all circumstances victims of human rights violations.

P a r t O n e

General Approach (paras 5-14)

(5) In general the ECMS are of the view that the WCHR should reaffirm the commitment of States to the basic principles contained in Articles 55 and 56 of the UN Charter and the International Bill of Rights, and to the universality and indivisibility of human rights.

(6) It should be reaffirmed that violations of human rights are a legitimate concern of the international community, implying as the case may be the accountability of a state both vis-a-vis persons under its jurisdiction and vis-a-vis the other States of the international community. Such concern cannot be considered an interference in internal affairs. In this context the primary responsibility of governments for the implementation of universally recognised human rights should be stressed and a commitment should be made on the part of States to strive towards the universal ratification of UN human rights instruments. As a concrete step toward this end the WCHR should make a strong appeal to States which have not adhered to those instruments to do so.

(7) The WCHR should also underscore the continued need for a system-wide approach to human rights within the UN: In all fields of activities of the UN, including peace and security matters and development issues, human rights concerns should always be taken into consideration. The ECMS also send a strong message of support for the existing supervisory mechanisms in the field of human rights (treaty bodies, working groups, rapporteurs and experts).

(8) The WCHR should address the important interlinked issues of human rights, democracy and development. It should be recognised that the human being - as an individual - should be at the centre of development and that democracy, pluralism and respect for human rights are essential prerequisites for sustained social and economic development. The central role development can play in the realisation of human rights and fundamental freedoms should also be acknowledged.

(9) On several occasions, the ECMS have formulated their views on the interrelationship between human rights, democracy and development. Thus on 28 November 1991, the EC Council of Ministers adopted a resolution on the relationship between these three elements thereby establishing a clear and forward-looking policy, to support actively both the process towards democracy and the promotion of reforms where needed. The ECMS recognise the necessity of a consistent approach towards human rights, democracy and development in their cooperation with third countries. Development cooperation focuses on the central place of the individual and has therefore in essence to be designed with a view to promoting human rights and democracy. Development projects must also aim to promote a suitable and efficient economic environment as well as public and social services which can offer equal opportunities to the whole population. The resolution also emphasises the commitment of the Community and its Member States to back this policy by practical measures in support of

human rights and democracy in areas such as strengthening of the judiciary, electoral assistance, support for a free press, reduction of military expenditure and good governance. The ECMS and their cooperation partners have over the years illustrated their commitments to human rights and democracy by the inclusion of human rights provisions in their association, economic and cooperation agreements.

(10) By promoting human rights and democracy as an integral part of the development process, the ECMS are creating the basis for development which is broad-based and sustainable in the long term. At the same time this development will in itself help to meet the basic social and economic needs of the citizens as well as to strengthen democratic institutions. The Declaration on the right to development brings together individual rights which are recognized in the Covenants and collective aspirations to greater well-being. The single most important message in the Declaration is that of solidarity - solidarity between industrialised countries and their developing partners, solidarity in every country with the most disadvantaged. The fact that three quarters of the planet's population continue to suffer from malnutrition, disease and poverty has to be of concern to every State and every individual.

(11) The leading role of the individual is of crucial importance. The individual is the subject, the agent, but never the passive object of development. Without the active, voluntary participation of the individuals and groups concerned, development policy is doomed to failure. While international development cooperation must of course be strengthened, development and democratisation remain, in the first instance, national responsibilities, as also set out in the Declaration on the right to development. It is for the States concerned to set up structures, in particular structures that promote dialogue, in order to respond to the needs and wishes expressed by the people.

(12) The important role of non-governmental organisations, national institutions for the promotion and protection of human rights and of the media should be stressed. They are important in seizing the general public's attention for human rights and in promoting and retaining human rights awareness. Individuals and non-governmental organisations throughout the world are making valuable and courageous contributions to safeguarding and promoting human rights. Defenders of human rights are still too often the first victims of the arbitrary treatment which they denounce. Specific measures should be envisaged in order to prevent this occurrence. States should enhance awareness of human rights, inter alia, through educational programmes, by allowing non-governmental organisations free access to funding and to information and free distribution of information on human rights in conformity with accepted standards of privacy.

(13) The process leading to the WCHR has been given clear guidance by UNGA Resolution 45/155. It formed the basis for the studies which are now being completed and for the provisional agenda agreed upon by the UNGA at its 47th session. As to the main objectives of the WCHR stipulated in that resolution the ECMS are of the view that much has been achieved since the adoption of the Universal Declaration on Human Rights in 1948:

- in the field of standard setting the International Bill of Human Rights and additional, more specific treaties and declarations have shaped a set of norms covering a very broad spectrum of human rights and fundamental freedoms, i.a. the Convention on the Elimination of all Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Protection of all Persons from Enforced Disappearance. Their importance has been reaffirmed time and again. One could say that general standard setting has been

advanced in a satisfactory way;

- concerning implementation much has still to be done, though respect for human rights and fundamental freedoms worldwide is now more assured than when UN and national efforts in the field started;

- As far as monitoring is concerned a diverse but effective system has been established consisting of bodies monitoring the implementation of treaties, and of rapporteurs and working groups, predominantly of the Commission on Human Rights. This system provides us with a vast amount of information and with a mirror to help us review our achievements. Operational use of emergency sessions of the Commission has provided us with a means to address acute gross violations more rapidly than was possible until recently. The advisory services programme of the Centre for Human Rights can provide, hitherto on a small scale, specific measures to facilitate implementation of human rights. A start has also been made with the inclusion of human rights activities in peace keeping and other UN operational activities.

(14) But while much has been accomplished, many issues and problems remain to be addressed. Resolution 45/155 makes the task of identifying these obstacles and ways in which they could be overcome a major theme for the WCHR. Efforts in the field of human rights have resulted in progress, but have not been free from setbacks:

- First of all, violations continue. Some States have not yet ratified human rights treaties, and even if rights have been acknowledged, their implementation often lags behind. The Conference should call on all States to carry out in full their responsibilities to end appalling human rights violations such as torture, forced disappearances, summary executions, denial of freedom of expression and opinion, and forced displacement. In this respect, impunity is a factor which leads both to injustice in specific cases, and to a general undermining of the rule of law. With regard to implementation, existing procedures for reporting to the

bodies supervising the implementation of the various human rights treaties should be made more efficient;
- There is a need for additional resources for human rights within the UN, in order to give the UN Centre for Human Rights enhanced strength and the ability to execute fully the many tasks entrusted to it. There is also a clear need for improved coordination on human rights issues throughout the UN system. Finally there seems to be a need to give clearer guidance concerning the programme for advisory services in the field of human rights. This programme should focus mainly on assistance for structural change. This assistance is called for if there has been a genuine commitment from the authorities involved to fundamental and irreversible change.

P a r t T w o

Concrete Measures
(paras 15-28)

(15) Focusing on the UN's efforts in these fields and taking into account the goals listed in UNGA Resolution 45/155, the ECMS wish to state their views on certain concrete results that should follow from the WCHR:
- concrete measures in support of the interrelated concept of human rights, democracy and development;
- a renewed effort at improving implementation;
- enhancement of the UN's efforts in the field of human rights, including monitoring and advisory services;
- action in some areas of particular concern.

Human Rights, Democracy and Development

(16) From the beginning of the process of the WCHR, the importance of working out the link between human rights, development and democracy has been stressed. While everyone agrees that these themes are interconnected, it has proved difficult to draw conclusions, let alone identify specific measures to enhance the practical meaning of the discussions.

(17) The ECMS are of the view that the WCHR could recommend the use of a broad range of advisory services and technical assistance to aid progress towards democracy including electoral assistance, the promotion of freedom of expression and information and human rights training and education.

(18) The final document of the World Conference should include i.a. the following elements on human rights, democracy and development:

- A general expression of the inter-linkages between human rights, democracy and development stressing that human rights and democracy form part of a larger set of requirements in order to achieve balanced and sustainable development;
- An underlining of the important role of development assistance in promoting - in parallel with economic and social rights - civil and political freedoms by means of representative democratic rule based on respect for human rights;
- Support for the democratization processes now under way in many countries and a pledge by the international community to back the move towards democracy and full enjoyment of human rights, i.a. by providing extended technical assistance in the field of human rights and democracy;
- A reaffirmation of the high priority which, within the framework of development collaboration, should be given to a positive approach that stimulates respect for human rights and encourages democracy;
- An indication that expanded financial and technical resources should be forthcoming to assist institution-building

within the public sector, strengthening of civil society and the protection of vulnerable groups;
- A reference to the crucial role of local and regional NGO's as some of the main advocates and defenders of human rights and democracy;
- Special references to rights of women and the special efforts needed to protect and promote the rights of women;
- Support to and follow-up on action and activities within the objectives of the International Year of the World's Indigenous Peoples with a view to furthering, i.a. the current work on rights of indigenous peoples.
- A pledge to pursue an open and constructive dialogue between countries as a means of promoting human rights, democracy and development in all parts of the world

Implementation

(19) A renewed effort is called for to ensure progress in the field of implementation of international norms on human rights and fundamental freedoms.

(20) Concrete measures to be recommended by the WCHR could include, according to the ECMS:
- a call for universal ratification of human rights instruments, setting in motion a review of all reservations made by States when becoming parties to the various international human rights instruments. States parties should be urged to consider withdrawal of reservations;
- a call for confirmation of succession to such instruments by States successors to States that were parties to them;
- identification of ways to remove remaining obstacles to full adherence to Human Rights instruments;
- regarding impunity, a welcome and stimulus for the work of rapporteurs, experts and working groups. Governments should prosecute those responsible for grave violations of human rights and thus provide a firm basis for the rule of law. The

focus should also be on compensation, on protection of relatives of victims and witnesses of human rights violations as well as on protection of human rights defenders;
- continued reform of treaty supervision and reporting procedures. Relevant organisations - governmental as well as non-governmental - should be encouraged to share their information with the treaty bodies. The recent change in funding of the CERD and CAT treaties has been a step forward. Funding from the regular UN budget instead of by contributions from state parties should provide the bodies established in accordance with these treaties the continuity they need. All treaty bodies should be treated equally in this respect;
- States should live up to their reporting obligations. Technical assistance to those countries in need of this to fulfil their reporting obligations remains important to the ECMS as well. The procedures for this should be specified, in order to make targeted assistance possible and effective. Technical assistance should also be provided in order to promote the establishment of national institutions on Human Rights, taking into consideration the important role they play for the promotion of international standards;
- for this and other purposes, regular meetings of chairpersons of treaty bodies are called for.

Enhanced Role for the UN:
The UN Centre for Human Rights

(21) As mentioned above, the UN has progressively taken on new, important tasks in the field of human rights. An impressive system has evolved, especially in the field of monitoring human rights. The WCHR should recommend that adequate means be provided to sustain this system. More specifically, the WCHR should recommend that the percentage of the UN's regular budget allocated to human rights should be substantially increased. This follows from the important place respect for human rights has as one of the fundamental aims of the UN.

(22) These funds should be used to allow the UN Centre for Human Rights to address its increasing responsibilities. An increase in funds is also the way to allow the Centre to get more closely involved in UN operations that have a human rights element, including peace keeping operations, monitoring teams and electoral assistance missions. In order to get system-wide attention in a consistent way, it has to be made clear that at all times the Centre for Human Rights is the focal point for human rights in the UN system. The Director of the Centre for Human Rights should be able to perform a stronger coordinating role.

(23) The thoughts outlined above concerning the UN Centre for Human Rights lead the ECMS to propose the following:
- the post of Director of the Centre for Human Rights should be upgraded to that of Undersecretary General for Human Rights/High Commissioner for Human Rights. The Conference should invite the Secretary General and the competent UN bodies to address this question;
- within the overall framework of the UN regular budget, an increased proportion should be put directly at the disposal of the USG/High Commissioner in order to cover the costs of the Centre for Human Rights, the supervisory bodies, monitoring systems, advisory services. This enhanced budget should be used to reinforce the voluntary methods of financing the Centre's technical cooperation activities; the Conference should call for generous contributions to the existing trust funds;
- the USG/High Commissioner for Human Rights should play an important role in coordinating system-wide attention for human rights. The focal role of the Centre can best be realized if it is enabled to cooperate fully with other UN entities. It should be enabled to participate, where appropriate, in peace keeping operations and monitoring missions. It should also be enabled to discharge its functions for electoral assistance. The coordinating role of the USG/High Commissioner for Human Rights also implies that the office of the Centre for Human

Rights in New York be strengthened;

- the USG/HCHR would assure adequate means for the system of thematic and country rapporteurs, experts and working groups. Follow-up on recommendations should become a priority matter for consideration by the CHR;

- while the convening of emergency sessions of the CHR has proved to be a step forward, better ways of responding to acute violations of human rights should be considered. One possibility would be to find ways to bring to the attention of the UN Secretary General massive violations of human rights with a view to submitting concrete cases to the Security Council together with recommendations for action. This action could be taken either at the initiative of the Director of the Centre or following requests from the CHR, special rapporteurs, experts, working groups and human rights treaty bodies. An important element would be to ensure that any UN official with overall responsibility for Human Rights had enhanced status, personal authority and access;

- the Centre for Human Rights should stand ready to assist in establishing and strengthening national human rights institutions and facilitate exchange of experience between such bodies. It could also assume an independent and effective role in the field of education and public information on human rights;

- the Centre for Human Rights should in the view of the ECMS also assume a larger role in the promotion of human rights through positive measures. This role could be given shape by an enhanced programme of advisory services, focusing solely on measures that could instigate real change in the state of human rights in specific countries. The existing voluntary funds will have to be expanded substantially for these purposes and should be managed in a more coordinated way. All contributions to the voluntary funds should be considered as official development assistance. We welcome the establishment of boards of trustees to supervise activities financed out of the voluntary funds. All activities should follow strict and transparent project management rules and regular programme and

project evaluations would have to be held.

Action in some areas of particular concern

(24) The points mentioned below are by no means the only ones on which the ECMS consider the World Conference on Human Rights should take action. Other specific areas on which the Conference should focus include:

- the rights of the Disabled
- the rights of Children
- the rights of Indigenous Peoples.

The recommerdations made by UN bodies and NGO's in this regard should be taken into account in formulating specific proposals.

Torture

(25) Torture is one of the most pervasive issues for the international community. Representatives of many and varied cultures have always agreed that torture is a human rights violation which can never be accepted or excused. Under human rights law and humanitarian law, freedom from torture is a right which must be protected under all circumstances, including in times of internal or international disturbance or armed conflicts. Over the years, many conventions have been drafted with the aim of eliminating torture. But torture still occurs in many countries. The Conference should therefore call on all States for an immediate end to this scourge through full implementation of the relevant Conventions and, where necessary, strengthening of existing mechanisms.

Racism

(26) The ECMS have always been and continue to be vehemently opposed to all forms of racism and racial discrimination. This was stated in very clear terms by the European Council in the Declaration on Racism and Xenophobia adopted at Maastricht in December 1991. We lose no opportunity to condemn these odious practices, and we are appalled by the crimes now being committed in the name of so-called racial or ethnic purity. The Conference should therefore in its final document include a strong condemnation of all forms of racism; it should reaffirm the commitment of all States to do their utmost to prevent and suppress all manifestations of racism and xenophobia.

Women's Rights

(27) The WCHR should address the issue of the human rights of women, and in particular the issue of violence against women. Consistent and system-wide action is called for. The WCHR should therefore strive for improved coordination between the appropriate UN bodies in this regard.

(28) In the view of the ECMS the World Conference could contemplate action along the following lines:
- the ECMS welcome the resolution adopted by the Commission on the Status of Women (CSW) at its 37th session entitled "World Conference on Human Rights" (E/CN.6/1993/L.5);
- the Conference should recommend that the 48th UNGA adopt the draft Declaration on Violence against Women (E/CN.6/1993/L.9) and that States implement its suggestions with a view to combating and eradicating violence against women as defined in Art. 2 of the draft Declaration;
- States should be encouraged to supply information on the situation of women de jure and de facto in their reports to treaty monitoring bodies;

- the ECMS note with satisfaction that the Commission on Human Rights adopted at its 49th session a resolution stating that rapporteurs and working groups in the field of human rights should also be encouraged to do so (Resolution 1993/46). From past experience, we know of violence against women in detention, of travel restrictions, of various other forms of discrimination, but the efforts need to become more systematic and need to be evaluated regularly. All relevant information in the reports should be made available on a regular basis and in an accessible format to the Commission on Human Rights and to the Commission on the Status of Women. In this context further cooperation needs to be established between the Centre for Human Rights and the Division for the Advancement of Women. Finally States should also be encouraged to withdraw reservations made when becoming party to the Convention on the Elimination of All Forms of Discrimination against Women.
- The ECMS welcome the decision of the CHR to "consider the appointment of a special rapporteur on violence against women at its fiftieth session".